

# Why Pediatricians Need Lawyers to Keep Children Healthy

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**STRACT.** Pediatricians recognize that social and non-medical factors influence child health and that there are many government programs and laws designed to provide for children's basic needs. However, gaps in implementation result in denials of services, leading to preventable poor health outcomes. Physician advocacy in these arenas is often limited by lack of knowledge, experience, and resources to intervene. The incorporation of on-site lawyers into the health care team facilitates the provision of crucial legal services to vulnerable families. Although social workers and case managers play a critical role in assessing family stability and finding appropriate resources for families, lawyers are trained to identify violations of rights and to take the appropriate legal steps to hold agencies, landlords, schools, and others accountable on behalf of families. The incorporation of lawyers in the clinical setting originated at an urban academic medical center and is being replicated at >30 sites across the country. Lawyers can help enhance a culture of advocacy in pediatrics by providing direct legal assistance and case consultation for providers, as well as jointly addressing systemic issues affecting children and families. Until laws to promote health and safety are consistently applied and enforced, pediatricians will need lawyers to effectively care for vulnerable children. *Pediatrics* 2004;114:224-228; *advocacy, health disparities, prevention.*

**ABBREVIATIONS.** FAP, Family Advocacy Program; BMC, Boston Medical Center.

A 6-year-old boy suffered from uncontrolled asthma despite receiving daily oral doses of corticosteroids and was often absent from school, threatening his mother's ability to keep her job. During a home visit, the visiting nurse discovered mold, which was attributable to a leaky water pipe, and wall-to-wall carpeting, which harbored dust mites. The patient's mother, the nurse, and the physician all repeatedly asked the landlord to fix the pipe, clean up the mold, and remove the carpeting, with no response.

The help this child needed was beyond the reach of the primary care doctor and the asthma specialist. A new specialist was consulted and, within 6 weeks, the child had discontinued corticosteroid treatment and was attending school regularly. The specialist

was a lawyer who was a member of the health care team. The lawyer researched the local and state sanitary and housing code regulations, called the landlord to inform him of his obligations to fix the pipe, clean up the mold, and remove the carpeting, and informed the landlord that the family would seek redress in court if he did not comply. The landlord immediately rectified the problems, leading to great improvement of the child's symptoms. In this article, we review the rationale for involving lawyers in children's health care, describe a prototypical model of practice, address barriers to its use, and discuss future funding and research challenges.

## RATIONALE FOR LAWYERS IN CLINICAL SETTINGS

Child health is inherently dependent on the social well-being of the family. Social and nonmedical factors influence the development of childhood disease and the severity of disease once it develops.<sup>1-5</sup> Public health and social policies are the traditional tools available to address nonmedical antecedents of child health problems. The Ottawa Charter for Health Promotion, sponsored by the World Health Organization, codifies specific fundamental needs for children, including peace, shelter, education, food, income, social justice, and equity.<sup>6</sup> There are many government programs and laws designed to meet these basic needs for low-income families, including nutrition supplementation through the Supplemental Nutrition Program for Women, Infants, and Children or food stamp programs, housing subsidies, utility assistance, income supports for disabled and low-income families, regular and special education services, and health insurance.

Many child health conditions can be traced to social factors that are potentially remediable with enforcement of existing laws and regulations. Despite this, gaps in the implementation of available programs, policies, and regulations are well documented.<sup>7-9</sup> Inconsistent program implementation, coupled with excessively bureaucratic administration, too often results in illegal denials of benefits and services, leading to preventable poor health outcomes. Disregard of regulations intended to protect against unhealthy environments can have similar effects. We know that asthma episodes among vulnerable children can be triggered by factors in the environment, such as air quality<sup>10</sup> and housing conditions.<sup>11</sup> Many low-income children experience impaired growth in winter because of a lack of available financial supports (known as the "heat or eat" phenomenon) although they are eligible for fuel assis-

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Received for publication Sep 19, 2003; accepted Jan 5, 2004.

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ization, disability determination, and special education services:

The presence of on-site legal services not only moves traditional barriers to obtaining legal assistance but also increases the likelihood that families will receive the information and assistance they need before a deprivation of rights leads to a crisis, such as child abuse, homelessness, or parental job loss. An interdisciplinary approach to child health is not new. In fact, child health programs have a long tradition of bringing workers in diverse disciplines, such as nurses, psychologists, health educators, nutritionists, and social workers, together in clinical settings.<sup>24</sup> Lawyers represent a natural extension of this approach. There are several ways to incorporate lawyers effectively into pediatric practices, as illustrated in the following scenarios.

#### **DIRECT LEGAL ASSISTANCE FOR FAMILIES: THE SUBSPECIALIST**

Lawyers can be available as subspecialists to provide very specific consultations regarding difficult problems. For example, Helen lost her job after multiple absences to care for her child, who has sickle cell anemia, and was behind in her rent payments. Referred by her child's pediatrician, Helen contacted the lawyer in the pediatric clinic when she received an eviction notice. The lawyer determined that Helen was eligible for state rental assistance and spoke with Helen's landlord on her behalf. Helen received the rental assistance and was not evicted. The attorney also helped Helen apply for food stamps, Temporary Assistance for Needy Families, and Supplemental Security Income, so that she could support her family more effectively.

#### **CASE CONSULTATION FOR PROVIDERS: LAWYERS AS PART OF THE TREATMENT TEAM**

Lawyers can provide an excellent adjunct to primary care. They can partner with pediatricians, nurses, or other health care professionals in screening families for social problems, by being available for walk-in consultations and integrating social work support. One example of how lawyers can function in this role is the situation of Maria, who has 3 children. The youngest child is 14 months of age, was recently diagnosed as having failure to thrive syndrome, and was prescribed an expensive formula supplement. When Maria's health insurance rejected her claim for coverage, the FAP attorney assisted the pediatrician in drafting a successful appeal letter and Maria began receiving the supplement free of charge. Attorneys at BMC play a critical role in training providers, residents, and others to write effective advocacy letters (a skill that is not taught in medical schools), thus developing clinician experts in advocacy.

By seeing families in a child health clinical setting, lawyers not only contribute to the preventive efforts of pediatricians but also can introduce the practice of "preventive law," because they see families before a lack of receipt of public benefits or illegal practices lead to crises. For many families with chronically ill children, for example, a child's illness can lead to job

loss because of recurrent episodes of illness and/or doctor appointments.<sup>25</sup> Without income, families stop paying their utility bills, which results in utility disconnections, the development of health hazards in the home, and possible eviction and homelessness. Lawyers can disrupt this sequence by supporting social workers' efforts to help families access appropriate income supports, such as unemployment insurance, Temporary Assistance for Needy Families, and Supplemental Security Income, and by working with utility companies to prevent disconnections. Although utility companies often ask health care providers to verify that a low-income family needs utility services that have been discontinued, providers and social workers may not have the time or training to understand the nuances of the law or to learn the detailed processes for each utility company. For example, in Massachusetts, utility companies will not discontinue utility service, in most cases, as long as some type of monthly payment is made.

#### **SYSTEMIC REFORM: MEDICAL-LEGAL PARTNERSHIPS PROMOTING SYSTEMIC CHANGE**

Lawyers can focus on legal advocacy regarding systemic issues facing many families in a pediatric practice. For example, in 1999 a BMC advocacy attorney began to investigate why multiple families were being refused exemptions from welfare-to-work requirements despite having chronically ill children. The Massachusetts Department of Transitional Assistance, using strict Supplemental Security Income disability criteria not intended for such a purpose, had raised the standard by which families of disabled children would be eligible for welfare program work requirement exemptions. FAP attorneys brought a patient's family and pediatricians into a class action suit, in collaboration with local legal service providers. As a result of the combined advocacy of pediatricians and lawyers, the court entered an injunction overturning the illegal regulation.

#### **BARRIERS TO INCORPORATING LAWYERS INTO THE CARE TEAM**

Although there is a compelling rationale for including lawyers in the child health care team, there are clearly important challenges to be overcome, including funding, potential overlap in roles, and patient resistance. These challenges are not insurmountable, however.

Obviously, funding can be a barrier to creating a health care team that includes lawyers. Legal aid services are not reimbursable by insurance; however, Medicaid reimbursement may be possible, because many of the tasks are similar to those of reimbursable case management and Medicaid does not stipulate that lawyers may not perform case management. Although it would not cover the complete costs of such services, Medicaid reimbursement has the potential to fund programs partially, with other sources being used to complete funding. At BMC, foundations, corporate (including law firm) sponsors, individual philanthropists, and bar associations have stepped forward to fund the FAP. They recognize the implications for creating better accountability of state

3. "Tell me again, why do pediatricians need lawyers to help them take care of their patients?"

## ACKNOWLEDGMENTS

This article was written with support from the Soros Foundation (M.S.) and a Robert Wood Johnson Minority Faculty Development Fellowship (L.S.); B.Z. was supported as a California Endowment Visiting Professor of Pediatrics at the University of California, Los Angeles.

We thank Paul Wise, MD, Joshua Sharfstein, MD, and Howard Abowitz, MD, for helpful comments.

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